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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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Changes to the Board of Directors of the  
National Exchange Carrier Association, Inc. )

CC Docket No. 97-21

Federal-State Joint Board on  
Universal Service )

CC Docket No. 96-45

## AT&T COMMENTS ON PETITIONS FOR RECONSIDERATION

Pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, and its Public Notice,<sup>1</sup> AT&T Corp. ("AT&T") files these comments supporting the petitions for reconsideration filed November 8, 1999 by Sprint Corporation ("Sprint"), MCI WorldCom, Inc. (now "WorldCom"), and the United States Telecom Association ("USTA") of the Commission's Order, FCC 99-291, released October 8, 1999 ("Order"), in the Universal Service proceedings. In that Order the Commission directed the Universal Service Administrative Company ("USAC") to recover discount funding erroneously awarded to certain school and libraries for ineligible services from service providers rather than from the program beneficiaries.

As petitioners properly show, the FCC should reconsider its decision to the extent that it held that repayment would be sought from service providers because they

<sup>1</sup> The Commission's Public Notice, Report No. 2425, was released July 13, 2000 and published in 65 Fed. Reg. 44786 (July 19, 2000). The Public Notice, which as originally released identified Sprint as the only petitioner, was subsequently corrected on July 24, 2000 to reflect the fact that two other petitions had also been filed.

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actually receive reimbursement of the funds from USAC. As Sprint (at 1-2) explains, to the extent the service provider does not retain the universal service fund ("USF") disbursements but forwards those to the appropriate school or library, USAC should be directed to seek recovery directly from the school or library.

Similarly, WorldCom (at 3-4) demonstrates that the school or library should be responsible for returning the overpayment. It points out that service providers only receive disbursements of funds as conduits and are required to immediately disburse those funds to participating schools and libraries. Service providers do not review the application for requested discounts; they do not determine eligibility; and they do not determine funding commitments. The BEAR form requires the service provider to certify that it will remit the discounted amount to the school or library within 10 days after receipt of the funds. Moreover, Section 54.516 of the FCC's rules requires schools and libraries to maintain records for audit and the Commission's worksheets explain that this because a school or library may be required to make repayments. Finally, placing the burden of recoupment on service providers would clearly damage customer goodwill. WorldCom at 6.

Moreover, as USTA (at 5) shows, it would be "inappropriate, inequitable [and] arbitrary . . . for the Commission or USAC to pursue recovery of alleged unlawful payments to service providers when: 1) the service provider is obligated to participate in the subsidy program; 2) the Commission has established no rules providing for the recovery of the alleged unlawful payments; 3) USAC made a determination of the eligibility of the subject applicant; 4) the service provider had no notice of any deficiency or ineligibility on the part of the subject applicant; and 5) the true beneficiary of the subsidy payment is the

applicant." Under these circumstances, there is simply no reason why the Commission should seek recoupment from carriers rather than program beneficiaries.

### CONCLUSION

For the reasons stated above, the Commission should reconsider its *Order* to the extent that it requires USAC to recoup schools and libraries funds from the service provider when the provider has already released those funds to the program recipient.

Respectfully submitted,

AT&T CORP.

By /s/



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August 3, 2000

**CERTIFICATE OF SERVICE**

I, Kelly Hannigan, do hereby certify that on this 3rd day of August, 2000,  
a copy of the foregoing "AT&T Comments on Petitions for Reconsideration" was served  
by U.S. first class mail, postage prepaid, on the parties named on the attached Service  
List.

/s/ Kelly Hannigan  
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